



Request for City Council Committee Action from the Department of Regulatory Services

Date: December 13, 2010

To: Elizabeth Glidden, Chair
Regulatory, Energy and Environment Committee


Subject: Update Chapter 339, Body Art Code, of the Minneapolis Code of Ordinances to conform with recent changes to state law 146B. (Senate File 525, effective date July 1, 2010)

Recommendation: That the Regulatory, Energy and Environment Committee approve amendments to Chapter 339, Body Art Code and the Licenses Fee Schedule to conform to changes in the state law.

Department Information

Prepared by: Grant Wilson

Approved by:


Rocco Forté, Director of Emergency Preparedness & Regulatory Services


Burt Osborne, Director of Licenses, Operations and Environmental Management


Grant Wilson, Interim Deputy Director of Licenses and Consumer Services

Presenters in Committee: Grant Wilson

Financial Impact

See detailed summary below.

Community Impact

Neighborhood Notification: Public hearing notices were sent to all of the neighborhood groups and business associations. Body art establishments licensed in Minneapolis received the public hearing notice and information about licenses required by the state of Minnesota.

City Goals

1. Livable Communities, Healthy Lives: Healthy choices are easy and economical.
2. Jobs & Economic Vitality: Businesses — big and small — start here, stay here, thrive here. Arts and artists are economic drivers in and of themselves.

Background and Supporting Information

There are an estimated 20,000 body art facilities operating in the United States. A 2006 study conducted by the Journal of the American Academy of Dermatology found that 24% of Americans between 18 and 50 are tattooed. 36% of Americans age 18 to 29 have at least one tattoo. The American Society of Dermatological Surgery reported in 2005 that only 6% of all people treated with laser and light therapy had a tattoo removed.

Since 1974 the City of Minneapolis has regulated body art technicians and establishments through Chapter 339 of the Minneapolis Code of Ordinances. In May 2010, the Minnesota legislature passed Senate File 525 which regulates body art technicians and body art establishments. Staff recommends updating the Minneapolis code to concur with the new state law effective January 1, 2011.

1. Licenses: The most significant change in the state law shifts license authority for all tattooists and piercers (also called Body Art Technicians or Tattoo Artists) to the state, thereby eliminating Minneapolis' artist license. A state license is also required for body art establishments but an exemption will be granted to establishments licensed by cities and counties whose ordinance provisions meet or exceed the provisions of Minnesota Statute, Chapter 146B. Minneapolis qualifies for this exemption. Additionally, the new law states: "Any county or municipal jurisdiction that maintains an ordinance that meets this exception may limit the types of body art procedures that may be performed in body art establishments located in its jurisdiction."

Staff recommends maintaining the Body Art Establishment License. The health and safety benefits include the following:

- New businesses must meet strict requirements including hand sinks and a sterilization area, for example. Building plans must be approved prior to construction.
- Inspections are conducted prior to license approval and annually thereafter. Establishments with a three year state license are entitled to one inspection during this license period.
- Standard operating procedures are used for enforcement including repeat violations.

2. Temporary Licenses: Guest artists will be limited to performing services for up to 30 days a year. Minneapolis' prior limit was 90 days per year. Licenses will be issued by the state.

Establishments and Professional Organizations that sponsor or participate in Temporary Events will continue to be required to obtain a Minneapolis License. Staff recommends implementing a 50% late fee for applications received less than 14 days prior to the event. This practice mirrors the late fees assigned to short-term food permits and temporary liquor and wine licenses.

3. Procedures: Tattoo procedures, nipple or genital piercing, microdermal (piercing body parts other than earlobes) subdermal implantation (implanting an object below the dermis level of the skin), and tongue bifurcation on anyone under the age 18, regardless of parental consent, are prohibited and staff recommends amending our ordinance to conform to this provision in the state law. Staff is not recommending prohibiting common piercings on youth but instead requiring authorization forms to be completed and signed by the parent or legal guardian who is present at the time of the procedure. New language prohibiting branding, scarification, suspension, and implantation on anyone regardless of age has been added to the proposed amendments. Other amendments include provisions preventing people who show signs of being under the influence from performing or receiving body art procedures and strengthening the health and safety standards.

4. Establishments: State law allows establishments to be licensed in private residences if the establishment is completely partitioned off, used exclusively for body art procedures (and cosmetology), and separate from the residential living, eating, and bathroom areas; has an approved plan review which requires a separate and secure entrance accessible without entering the residential living, eating, and bathroom areas; meets other standards of the ordinance and is available for inspection upon request. Staff recommends adopting this provision in our code. State law also allows mobile body art establishments. The proposed amendments do not adopt this provision. Finally, this proposal adopts the state language regarding grounds for license denial or revocation and emergency closure.

The financial impact for the city, artists, and establishments is as follows:

1. Artists: There are 92 body art artists licensed in Minneapolis. The City of Minneapolis will lose \$18,216 in revenue from the \$198 body art artist license and the \$99 temporary artist license. The cost of a State of Minnesota artist license is \$100 for two years and \$55 for a temporary artist license. Staff costs associated with licensing a body art artist are as follows:

New License, Body Art Technicianist:

Environmental Health Inspector administers a standardized competency test and reviews and recommends approval of the license application. License Division Customer Service Representative (CSR) inputs application data/fees and issues the license. Staff Costs: \$128 per application. 2010 license fee, new license surcharge and exam fee: \$345.

2. Establishments: There are 27 licensed body art establishments in Minneapolis. The annual Minneapolis license fee for body art establishments will be \$201 effective January 1, 2011. The state of Minnesota license fee is \$1,100 for a three year period. Minneapolis will continue to require establishments to be licensed by the city. The state license exemption will be approved for our licensed establishments at no fee. Therefore staff does not predict a revenue loss. Staff costs for regulating establishments are as follows:

New License, Establishment:

Environmental Health Inspector reviews/approves application and inspects premises. CSR inputs data/fees and issues the license. Staff Costs: \$368 per application. 2010 license fee, new license surcharge and plan review fee: \$420.

Annual Renewal, Establishment:

Environmental Health inspection and CSR processing staff costs: \$184 per application. 2010 License Fee: \$198.

Temporary Event, Establishment:

Environmental Health reviews, submits (2011) documentation to the State of Minnesota, and inspects event. CSR inputs data/fees and issues the license. Staff Costs: \$95 per application. 2010 License Fee: \$99.

Supporting Information Required

Minnesota Senate File 525

<https://www.revisor.mn.gov/bin/bldbill.php?bill=S0525.5.html&session=1s86>

League of Minnesota Cities guidelines

<http://lmccodification.blogspot.com/2010/06/new-law-regulating-tattoo-and-body-art.html>

Recommendation

That the Regulatory, Energy and Environment Committee approve the proposed amendments to Chapter 339, Body Art Code and the Licenses Fee Schedule as follows:

Tattooist/Piercer	\$198
Tattooist/Piercer, Temporary	\$99
Tattoo, Sponsor for Temporary Event Late Fee – Additional 50%	